

RECORDATION NO. **9635** Filed & Recorded

AUG 8 1978 10 00 AM

INTERSTATE COMMERCE COMMISSION

JOHN S. CARLSON
WOODLAND ROAD
STONE RIDGE, N. Y. 12484

July 27, 1978

Mrs. Mildred Lee
Interstate Commerce Commission
12th & Constitution Avenues N.W.
Washington, D. C. 20423

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AUG 8 1978 10 00 AM

INTERSTATE COMMERCE COMMISSION

Dear Mrs. Lee,

Please record as provided in Section 20 of the Act. the following documents:

Bill of Sale
Lease agreement between owners
John S. and Vivian M. Carlson
and
Montedison U.S.A. Inc.

8-220A018

NE

AUG 8

1978

Date

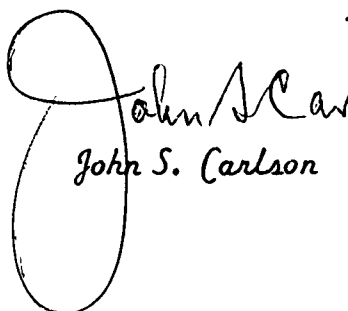
Fee \$ **100**

ICC Washington, D.

Two copies of each are enclosed. It's understood one copy of each will be returned to the above address.

Check for 100⁰⁰ to cover cost of recording is also enclosed.

Yours truly,


John S. Carlson

RECEIVED
AUG 8 9 57 AM '78
FEDERATION BR.
D.C.C.

Interstate Commerce Commission
Washington, D.C. 20423

OFFICE OF THE SECRETARY

8/78/
8/8/78

John S. Carlson
Woodland Road
Stone Ridge, N.Y. 12484

Dear Sir:

The enclosed document(s) was recorded pursuant to the
provisions of Section 20(c) of the Interstate Commerce Act,
49 U.S.C. 20(c), on 8/8/78 at 10:00am ,
and assigned recordation number(s) 9635, 9635-A

Sincerely yours,

H.G. Homme, Jr.,
Acting Secretary

Enclosure(s)

SE-30-T
(2/78)

9635
RECORDATION NO. Filed & Recorded
AUG 8 1978 10 00 AM
INTERNATIONAL COMMERCE COMMISSION

CAR SERVICE CONTRACT
No. 1

This Agreement, made this 3rd day of March 1978
by and between John S. Carlson, Woodland Road, Stone Ridge,
N.Y. 12484 (Hereinafter called "Lessor") and

Montedison U.S.A., Inc., a New York Corporation,
1114 Avenue of The Americas, New York, N.Y. 10036
corporation, (hereinafter called the "Lessee")

WITNESSETH:

- (1) Lessor agrees to lease to the Lessee, and the Lessee agrees to, and hereby does hire of Lessor

Three 5700 cu.ft. "Center Flow" Covered Hopper Cars

(hereinafter referred to as "the cars"); which cars are to be used by, and exclusively in the service of the Lessee for Plastic Resins.

(2) Lessor agrees to deliver the cars to the Lessee freight charges collect, in the yard of the delivering line at the loading point designated by Lessee, and the Lessee agrees to accept such delivery of the cars (and to pay the rental rate thereof as hereinafter provided from the date of delivery of cars) at the point immediately above specified until the cars are returned at the termination of this lease to the Lessor at said point or other points mutually agreed upon. Lessor's obligation as to deliveries hereunder is subject to delays due to labor difficulties, fire, delays of carriers and materialmen or other like or unlike contingencies beyond the reasonable control of the Lessor.

(3) Lessee agrees to pay to Lessor as rental the sum of \$385.00 per car per month for the use of said cars. Said monthly rental shall be paid to John S. Carlson, Woodland Road, Stone Ridge, N.Y. 12484, in advance on the first day of each month during the term except that Lessee shall pay on the delivery of the cars a pro rata of one month's rent for the period intervening the date of delivery and the first of the next succeeding month.

(4) . This agreement becomes effective January 11, 1978 and shall remain in full force with regard to the car(s) leased for a minimum period of twenty-four (24) months, ending approximately May 31, 1980, and continuing on a year to year basis with cancellation by either party, in writing, ninety (90) days prior to expiration date.

(5) Lessor shall collect all mileage earned by the cars and shall credit to the rental account of Lessee for each accounting period (as defined) such mileage earned by the cars while in the service of Lessee, as and when received from the railroads according to, and subject to, all rules of the tariffs of the railroads, but only to the extent of the aggregate rental charges payable hereunder for such year. The term "accounting period", as used in this contract, is defined to mean each period of twelve (12) consecutive months within the term of this contract ending on the anniversary of the effective date hereof, and any period from the last such twelve (12) months period to the date of expiration of this contract. Lessee shall give Lessor weekly reports of the movements of the cars, giving origin, destination, date and complete routing of each movement.

(6) Lessee agrees so to use the cars that their mileage under load shall be equal to their empty mileage on each railroad over which they move. Should the empty mileage on any railroad exceed the loaded mileage, the Lessee shall pay to the Lessor for such excess at the rate and at the time established by the tariff of the railroad on which such excess of empty miles has accrued. For the purpose of this paragraph the railroad mileage reports received by Lessor shall be prima facie evidence of the facts reported therein. All railroad tariff charges during the term of this agreement, including freight and switching charges, incident to the movement of the cars, shall be for the Lessee's account except when due to the specific action of the Lessor.

(7) Lessee will preserve the cars in good condition and will not in any way alter the physical structure of the cars without the approval in writing of the Lessor. At the termination of this lease, Lessee will return all of the cars to the Lessor at the point specified in paragraph (2) hereof, or other points mutually agreed upon, empty, free from residue, and in the same good order and condition as the cars were in when they were delivered by the Lessor to Lessee, ordinary wear and tear excepted. Lessee shall on demand reimburse Lessor for the cost of cleaning any cars containing residue or for damage to any car, appurtenances, and/or outlets which have been affected by the commodity loaded therein.

(8) Lessee will indemnify Lessor against loss or damage caused during the term of this lease to or by any of the cars hereby leased, or to or by the contents thereof, howsoever occurring and will indemnify Lessor against any loss or damage suffered by it by reason of or arising out of any default by Lessee hereunder. Lessee will not assign, transfer, encumber, or otherwise dispose of this lease, the cars or any part thereof or sub-let or under-let the cars hereby leased, or change or permit to be changed or altered the present lettering and/or numbering on said cars or any of them without the consent of Lessor in writing first obtained. Lessee will not permit or suffer any encumbrances or liens to be entered or levied upon the cars, or any of them.

(9) Lessor agrees to furnish the cars in accordance with the present DOT requirements and in compliance with the now existing A.A.R. rules of interchange, and to conduct necessary repairs during the term of this lease. Lessee agrees to provide prompt notification of car damage or defect, and to forward the cars as may be directed by the Lessor. Lessor shall not be liable for any damage to or loss of the whole or any part of any shipment made in any of the cars. Lessee shall at its expense replace any removable parts if lost or broken. If any of the cars shall be completely destroyed, or if the physical condition of any car shall become such that such car cannot be operated in railroad service as determined by the Lessor, then Lessor may at its option cancel this lease as to such car as of the date on which such event occurred, or may substitute therefor another car within a reasonable period of time. Any car modification costs incurred by Lessor in compliance with a DOT or A.A.R. rule change shall be for the account of the Lessee. As cars are placed in a shop for maintenance and/or repair at the direction of Lessor, the rental charges on each such car shall cease on date of arrival at such shop and will be reinstated on date such car is ready to leave such shop to Lessee's specified point. If a car becomes bad order while en route and is placed in railroad shops for repairs, then after the lapse of five days the rent on the car so placed shall cease until such car is returned to Lessee's service. If any repairs are required as a result of the misuse by or negligence of Lessee, its consignee, agent or sub-lessee, the rental charge shall continue during the period of repair.

(10) It is mutually agreed that the time of payment of rentals is of the essence of this contract and that this contract is subject and subordinate to any Chattel Mortgage or Conditional Sale Agreement on the cars heretofore or hereafter created and to the rights of any Trustee under any Equipment Trust heretofore or hereafter established by the Lessor, and that if the Lessee shall make default in the payment of rentals for the cars at the time when same become due and payable or shall make default in the performance or observance of any of the other agreements herein contained and by Lessee to be performed or observed and such default shall continue for ten (10) days, or there shall be filed by or against Lessee a petition in bankruptcy or for reorganization under the Bankruptcy Law or there shall be a receiver appointed of any part of Lessee's property or Lessee shall make a general assignment for the benefit of creditors, then and in any of said events Lessor, at its election, may terminate this lease and repossess itself of said cars and this lease shall thereupon become and be terminated, or may repossess itself of said cars and re-let the same or any part thereof to others for such rent and upon such terms as it may see fit; and if a sufficient sum shall not be thus realized after repaying all expenses of re-taking and re-letting said cars and collecting the rentals thereof to satisfy the rentals herein reserved, the Lessee agrees to satisfy and pay the deficiency from time to time upon demand. The obligation to pay such deficiency shall survive such termination of this lease and/or such retaking of the cars. Lessee shall without expense to Lessor assist it in repossessing itself of said cars and shall for a reasonable time if required furnish suitable track-age space for the storage of said cars.

(11) In the event that the Lessee continues to use the car(s) after the expiration of the term of this agreement or does not return such car(s) to the Lessor, as required by this agreement, on or before the expiration of the term of this agreement, all of the terms and conditions of this agreement except in respect to expiration of the term thereof, shall continue to apply. In such event, Lessee will give Lessor ninety (90) days' written notice of its intention to return the car(s) to Lessor. The foregoing will not affect Lessor's right to return of the car(s) at any time after such expiration.

(12) Anything in paragraph (8) of this lease contained to the contrary notwithstanding, the Lessee shall have the right to sub-lease any of the cars, for single trips, to its customer, or to its suppliers, and to cause such cars so subleased to be boarded or placarded with the names of the sublessees in accordance with the provisions of demurrage tariffs lawfully in effect, where the sole purpose of such subleasing is to obtain an exemption from demurrage for said cars so sub-leased; provided, however, that notwithstanding any such sublease, the Lessee shall continue to remain liable to the Lessor for the fulfillment of the Lessee's obligation under this lease; and provided, further, that the Lessor shall have the right, at any time, to withdraw the privilege of subleasing hereinabove granted to the Lessee.

(13) The application, maintenance and removal of interior protective coating on the cars are to be performed by and at the expense of the Lessee. Commodity or mechanical damage to the lining of any car shall be for the account of the Lessee.

(14) Lessor will pay all property taxes properly imposed on or measured by such cars on the mileage thereon and will file all property tax reports relating thereto. Lessee will be responsible for all sales, use, and/or rental taxes imposed by federal, state, municipal and other government authority, and in addition Lessee agrees to assume cost of duty, sales and all other taxes incidental to exportation of the cars out of or operation thereof outside of the Continental United States.

(15) Lessee will be responsible for inspection and cleaning of the operating mechanism of the outlets, hatches and special fittings on cars leased herein. Further, any damage to the outlets, hatches and special fittings or their operating mechanism will be repaired for the account of the Lessee.

(16) No car shall be utilized in Unit Train service, nor shall any car be transported or moved more than Forty Thousand (40,000) miles during any year of this lease, computed from anniversary date to anniversary date, unless consented to in writing by Lessor in advance of such use. If any car is determined to have been transported or moved in excess of Forty Thousand (40,000) miles during such year, Lessee agrees to pay Lessor as additional rent for such car the sum of \$.018 per mile for each mile in excess of Forty Thousand (40,000) miles, but less than Eighty Thousand (80,000) miles, and the sum of \$.03 per mile for each mile in excess of Eighty Thousand (80,000) miles. The determination of the total number of miles for each car per year shall be made by multiplying the total number of loaded miles for such car in such year by Two (2), unless Lessor has in its possession information sufficient to disclose to its satisfaction the exact mileage for such car for such year.

(17) In case approval for the use of the cars or any of them obtained pursuant to Circular No. OT-5 of the A.A.R. as now or hereafter in effect is withdrawn or modified, this contract shall remain in full force and effect notwithstanding such withdrawal or modification.

(18) This agreement shall be binding upon and shall inure to the benefit of the Lessor, its successors and assigns, and the Lessee, Lessee's legal representative and successors and (if consented to by Lessor) assigns.

(19) This agreement shall be governed by and construed in accordance with the Laws of the State of New York.

(20) Lessee agrees to pay Lessor, in addition to the rental rate mentioned in Paragraph 3, \$36.00 per car per month for a continuous term of the lease to cover amortization of interior protective lining.

(21) Lessor has a management agreement with Federal Rail Car Corp. 200 North Ave., Westfield, N.J. 07091. All day to day operating communications and lessee reporting as outlined in Paragraph (5) should be addressed to Mr. Gordon Thomas, V.P., Federal Rail Car Corp., 200 North Avenue, Westfield, N.J. 07091.

IN WITNESS WHEREOF, the parties hereto have duly executed and sealed this agreement in duplicate the day and year first above written.

Attest:

Kristen A. Carlson

JOHN S. & VIVIAN M. CARLSON

By

John S. Carlson
Vivian M. Carlson

MONTEDISON U.S.A., INC.

Attest:

[Signature]

By

[Signature]
F. Valentino, Ex.Vice President